No. 74-1600

Supreme Court, U. S.
FILED
AUG 12 1975
MICHAEL RODAK, JR., CLERK

# In the Supreme Court of the United States

OCTOBER TERM, 1975

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ANTHONY M. SALONE, JR., PETITIONER

*v.*

UNITED STATES OF AMERICA, ET AL.

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*ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT*

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## MEMORANDUM FOR THE RESPONDENTS

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ROBERT H. BORK,
*Solicitor General,*
*Department of Justice,*
*Washington, D.C. 20530.*

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The question presented by the petition in this case is the same as that presented by the petition in *Chandler* v. *Roudebush*, No. 74-1599: whether district courts must conduct trials *de novo* with respect to federal employment discrimination complaints brought under Section 717(c) of the Civil Rights Act of 1964, as amended, 42 U.S.C. (Supp. III) 2000e-16(c).

We have acquiesced in the granting of the petition for a writ of certiorari in *Chandler* because the courts of appeals have reached conflicting decisions on this important issue. The Third Circuit in *Sperling* v. *United States*, 515 F.2d 465, held that a *de novo* trial is required, while the Ninth Circuit in *Chandler* and the Tenth Circuit in the present case held that a *de novo* trial is not required.

While we do not oppose the granting of the petition for a writ of certiorari in this case, we see no need for the Court to hear argument both in this case and in *Chandler*. If the Court grants the petition in *Chandler*, we believe it would be appropriate to hold the present petition pending a decision in *Chandler*. Alternatively, if the Court grants both petitions, it would be appropriate to consolidate the cases.

Respectfully submitted.

ROBERT H. BORK,
*Solicitor General.*

AUGUST 1975.